

NOTE: CHANGES MADE BY THE COURT

1 THOMAS A. EVANS (SBN 202841)
2 E-mail: tom.evans@alston.com
3 ALSTON & BIRD LLP
4 560 Mission St., Suite 2100
5 San Francisco, CA 94105
6 Telephone: +1 415 243 1000
7 Facsimile: +1 415 243 1001

8 JONATHAN J. KIM (SBN 312145)
9 E-mail: jonathan.kim@alston.com
10 ALSTON & BIRD LLP
11 350 S. Grand Ave., 51st Floor
12 Los Angeles, CA 90071
13 Telephone: +1 213 576 1000
14 Facsimile: +1 213 576 1100

15 Attorneys for Defendant
16 THE LAFAYETTE LIFE INSURANCE COMPANY

17
18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**
20

21 ANTHONY DI BERNARDO; FLEXIBLE
22 INSURANCE PLANS, INC. dba FIP
23 INSURANCE SERVICES, a California
24 corporation, and STRATEGIC
25 INSURANCE DESIGNS, INC. dba
26 STRATEGIC DESIGNS INSURANCE
27 SERVICES, a California corporation,

28 Plaintiffs,

v.

THE LAFAYETTE LIFE INSURANCE
COMPANY; an Ohio corporation;
PENSIONLABS INCORPORATED, a
Washington corporation; MICHAEL
HOLMAN, an individual; PROBABILITY
TECHNOLOGY, INC., a Washington
corporation; CHARLES B. GRAMP; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 8:23-cv-01035-FWS-KES

(Removed from Orange County
Superior Court Case No. 30-2023-
01323059-CU-BC-CJC)

Assigned to the Hon. Fred W. Slaughter

**STIPULATED PROTECTIVE
ORDER**

Filing Date: May 1, 2023
Removal Date: June 13, 2023

1 WHEREAS, discovery in this action (“Litigation”) is likely to involve production
2 of confidential, proprietary, or private information for which special protection from
3 public disclosure and from use for any purpose other than prosecuting this litigation
4 may be warranted. Accordingly, the parties stipulate to and petition the Court to enter
5 the following Stipulated Protective Order. The parties acknowledge that this Order
6 does not confer blanket protections on all disclosures or responses to discovery and that
7 the protection it affords from public disclosure and use extends only to the limited
8 information or items that are entitled to confidential treatment under the applicable
9 legal principles.

10 Accordingly, IT IS HEREBY ORDERED that the terms and conditions of this
11 Protective Order shall govern the handling of discovery materials in the Litigation:

12 **1. Applicability of Order:** This Order does not and will not govern any trial
13 proceedings in this Litigation, but will otherwise be applicable to and govern the handling
14 of documents, depositions, deposition exhibits, interrogatory responses, responses to
15 requests for admissions, responses to requests for production of documents, and all other
16 discovery obtained pursuant to the Federal Rules of Civil Procedure by or from a party
17 in connection with the Litigation (this information hereinafter referred to as “Discovery
18 Material”). As used herein, “Producing Party” or “Disclosing Party” shall refer to the
19 parties to this action that give testimony or produce documents or other information, and
20 “Receiving Party” shall refer to the parties to this action that receive such information.

21 **2. Designation of Material:** Any Producing Party may designate Discovery
22 Material that is in their possession, custody or control to be produced to a Receiving Party
23 as “Confidential” or “Highly Confidential” under the terms of this Order if the Producing
24 Party in good faith reasonably believes that such Discovery Material contains non-public,
25 confidential material as defined in sections 4 and 5 below, (hereinafter “Confidential
26 Material” or “Highly Confidential Material”).

27 **3. Exercise of Restraint and Care in Designating Material for Protection.**
28 Each Party or Non-Party that designates information or items for protection under this

1 Order must take care to limit any such designation to specific material that qualifies under
2 the appropriate standards. Mass, indiscriminate, or routinized designations are prohibited.

3 **4. Confidential Material:** For purposes of this Order, Confidential Material
4 is any information that a party believes in good faith to be confidential or sensitive
5 information, including, but not limited to, trade secrets, research, design, development,
6 financial, technical, marketing, planning, personal, or commercial information, as such
7 terms are used in Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure and any
8 applicable case law interpreting Rule 26(c)(1)(G) or the former Rule 26(c)(7). The
9 parties also agree that any personal identifying information (PII) and sensitive personal
10 information, including any private information relating to a policyholder, annuitant, or
11 insured, is Confidential Material.

12 **5. Highly Confidential Material:** For purposes of this Order, Highly
13 Confidential Material is any Confidential Material as defined in paragraph 4 which also
14 includes trade secrets or proprietary or other highly confidential business, financial,
15 regulatory, or strategic information, the disclosure of which would create a substantial
16 risk of competitive or business injury to the Producing Party.

17 **6. Designating Confidential Material or Highly Confidential Material:**
18 The designation of Discovery Material as Confidential Material or Highly Confidential
19 Material for purposes of this Order shall be made in the following manner:

20 **a. Documents:** In the case of documents or other materials (apart from
21 depositions or other pre-trial testimony), designation shall be made by affixing the legend
22 “Confidential” or “Highly Confidential” to each page containing any Confidential or
23 Highly Confidential Material, respectively.

24 **b. Deposition and Other Proceedings:** In the case of depositions or other
25 pre-trial testimony, designation of the portion of the transcript (including exhibits) which
26 contains Confidential Material or Highly Confidential Material shall be made (i) by a
27 statement to such effect on the record during the proceeding in which the testimony is
28 received, or (ii) by written notice served on counsel of record in this Litigation within

1 thirty (30) business days after the receipt of the draft transcript of such proceeding.
2 However, before such thirty (30) day period expires, all testimony, exhibits and
3 transcripts of depositions or other testimony shall be treated as Highly Confidential
4 Material. All portions of deposition transcripts not designated Confidential Material or
5 Highly Confidential Material as provided in paragraphs 4 and 5 shall be deemed not
6 confidential.

7 **c. Non-Written Materials:** Any non-written Confidential Material or
8 Highly Confidential Material (e.g., videotape, audio tape, computer disk, etc.) may be
9 designated as such by labeling the outside of such non-written material designated as
10 "Confidential" or "Highly Confidential." In the event a Receiving Party generates any
11 "hard copy" transcription or printout from any such designated non-written materials, the
12 person who generates such "hard copy" transcription shall take reasonable steps to
13 maintain the confidentiality of such materials.

14 **7. Inadvertent Disclosure:** The inadvertent failure to designate Discovery
15 Material as Confidential or Highly Confidential does not constitute a waiver of such claim
16 and may be remedied by prompt supplemental written notice upon discovery of the
17 inadvertent disclosure, with the effect that such Discovery Material will be subject to the
18 protections of this Order. The Receiving Party shall exercise good faith efforts to ensure
19 that copies it makes of Discovery Material produced to it, and copies made by others who
20 obtained such Discovery Material directly or indirectly from the Receiving Party, include
21 the appropriate confidentiality legend, to the same extent that the Discovery Material has
22 been marked with the appropriate confidentiality legend by the Producing Party.

23 **8. Notes of Confidential Material or Highly Confidential Material:** Any
24 notes, lists, memoranda, indices, compilations prepared or based on an examination of
25 Confidential Material or Highly Confidential Material, that quote from or paraphrase,
26 Confidential Material or Highly Confidential Material with such specificity that the
27 Confidential Material or Highly Confidential Material can be identified, or by reasonable
28 logical extension can be identified, shall be accorded the same status of confidentiality as

1 the underlying Confidential Material or Highly Confidential Material from which they
2 are made and shall be subject to all of the terms of this Protective Order.

3 **9. Notice To Non-Parties:** Any Party issuing a subpoena to a non-party shall
4 enclose a copy of this Protective Order with a request that, within ten (10) calendar days,
5 the non-party either request the protection of this Protective Order or notify the issuing
6 party that the non-party does not need the protection of this Protective Order or wishes to
7 seek different protection.

8 **10. Persons Authorized To Receive Confidential Material:** Discovery
9 Material designated “Confidential” may be disclosed, summarized, described,
10 characterized or otherwise communicated or made available in whole or in part only to
11 the following persons:

12 a. The Court, persons employed by the Court ~~who are necessary for the~~
13 ~~handling of the Litigation~~, and court reporters transcribing the testimony or argument at
14 a hearing, trial or deposition in this Litigation or any appeal there from;

15 b. Counsel of record in this Litigation, as well as paralegals, technical,
16 administrative and clerical employees working under the direct supervision of such
17 counsel;

18 c. Subject to paragraph 12 hereof, experts or consultants assisting
19 any counsel of record in this Litigation, provided such experts and consultants have
20 signed the “Agreement Concerning Information Covered by Protective Order”
21 attached hereto as Exhibit A;

22 d. Parties who have a need to know such information for purposes of
23 this Litigation and who have signed the “Agreement Concerning Information Covered
24 by Protective Order” attached hereto as Exhibit A;

25 e. Officers, directors or employees of parties who have a need to
26 know such information for purposes of this Litigation and who have signed the
27 “Agreement Concerning Information Covered by Protective Order” attached hereto as
28 Exhibit A;

1 f. Commercial copy vendors retained by counsel of record in this
2 action for purposes of this Litigation, provided such vendors have signed the
3 “Agreement Concerning Information Covered by Protective Order” attached hereto as
4 Exhibit A. A signature by an authorized representative of company the company who
5 confirms that he or she has appropriately advised the relevant employees of the
6 confidentiality obligations in this order and taken reasonable steps to comply thereto
7 shall be sufficient;

8 g. During their depositions, witnesses in the Litigation who agree on
9 the record to maintain the confidentiality of relevant documents or information shown
10 to them or who have signed the “Agreement Concerning Information Covered by
11 Protective Order” attached hereto as Exhibit A (except that persons described in sub-
12 paragraph (i) below do not need to sign Exhibit A to be shown Confidential Material
13 in their depositions). In the event of refusal of the witness to execute such
14 confidentiality agreement, such witness shall nevertheless be deemed bound by the
15 terms of this Order; furthermore the party or parties seeking to use such information
16 and the Producing Party will secure from a court having jurisdiction over such witness
17 such order and directions directed specifically to such witness containing such
18 provisions as are consistent with the terms of this Order; and the Producing Party will
19 cooperate fully in the making of any such application;

20 h. Any person indicated by a document marked as Confidential Material
21 to be an author, addressee, or copy recipient of the Confidential Material, or as to whom
22 there has been testimony, whether at deposition or trial, or by declaration or affidavit, that
23 the person was the author or recipient of the Confidential Material; and

24 i. Any other person, only upon order of the Court or upon stipulation of
25 the Producing Party who has signed the “Agreement Concerning Information Covered by
26 Protective Order” attached hereto as Exhibit A.

27 **11. Persons Authorized To Receive Highly Confidential Material:**
28 Except as specifically provided for in this or subsequent Court orders, Highly

1 Confidential Material or its contents shall not be disclosed, summarized, described, or
2 otherwise communicated or made available in whole or in part to any person or entity,
3 directly or indirectly, other than the following:

4 a. The Court, persons employed by the Court ~~who are necessary for the~~
5 ~~handling of the Litigation~~, and court reporters transcribing the testimony or argument at
6 a hearing, trial or deposition in this Litigation or any appeal there from;

7 b. Counsel of record in this Litigation, as well as paralegals,
8 technical, administrative and clerical employees working under the direct supervision
9 of such counsel, provided each has signed the “Agreement Concerning Information
10 Covered by Protective Order” attached hereto as Exhibit A;

11 c. Subject to paragraph 12 hereof, experts or consultants necessary to
12 assist counsel of record in this Litigation, provided such experts and consultants have
13 signed the “Agreement Concerning Information Covered by Protective Order”
14 attached hereto as Exhibit A;

15 d. Commercial copy vendors retained by counsel for purposes of this
16 Litigation, provided such vendors have signed the “Agreement Concerning
17 Information Covered by Protective Order” attached hereto as Exhibit A;

18 e. During their depositions, witnesses in the Litigation to whom
19 disclosure is reasonably necessary and who have signed the “Agreement Concerning
20 Information Covered by Protective Order” attached hereto as Exhibit A (except that
21 persons described in sub-paragraph (g) below do not need to sign Exhibit A to be
22 shown Highly Confidential Material in their depositions);

23 f. Any person indicated by a document marked Highly Confidential
24 Material to be an author, addressee, or copy recipient of the Highly Confidential
25 Material, or as to whom there has been testimony, whether at deposition or trial or by
26 declaration or affidavit, that the person was the author or recipient of the Highly
27 Confidential Material; and

28 g. Any other person, only upon order of the Court or upon stipulation

1 of the Producing Party, and who has signed the “Agreement Concerning Information
2 Covered by Protective Order” attached hereto as Exhibit A.

3 **12. Qualifications of Outside Experts and Consultants:** Confidential nor
4 Highly Confidential Material shall be disclosed to any outside experts or consultants who
5 are current employees of a direct competitor of The Lafayette Life Insurance Company.
6 With respect to outside experts or consultants who were employed by a direct competitor
7 of The Lafayette Life Insurance Company named in the Litigation within one (1) year
8 from the date of this Order, Confidential and Highly Confidential Material may be shared
9 with those experts or consultants only after counsel for The Lafayette Life Insurance
10 Company is given at least twenty (20) days prior written notice of the identity of the
11 expert or consultant to whom such Confidential or Highly Confidential Material is to be
12 disclosed (including his or her name, address, current job title and the names of any direct
13 competitors by which he has been employed), is afforded an opportunity to object to the
14 disclosure of the Confidential or Highly Confidential Material, and a resolution to any
15 such objection has been reached. Notwithstanding paragraphs 10(c) and 11(c),
16 Confidential Material or Highly Confidential Material may be provided to experts or
17 consultants only for the purpose of aiding, assisting, or allowing such expert or consultant
18 to prepare a written opinion, to prepare to testify, or to assist counsel for a party in this
19 Litigation.

20 **13. Use of Discovery Material:** Discovery Material containing Confidential
21 and/or Highly Confidential Material shall be used solely for purposes of the
22 Litigation, including any appeal and retrial. Any person or entity in possession of
23 Discovery Material designated Confidential or Highly Confidential (defined below)
24 shall maintain those materials in accordance with Paragraph 16 below.

25 **14. Agreement Must Be Signed Prior To Disclosure.** Each person to whom
26 Confidential or Highly Confidential Material may be disclosed that is also required to
27 sign the “Agreement Concerning Information Covered by Protective Order” (attached
28 hereto as Exhibit A) pursuant to Paragraphs 10(c)-10(h), 10(j), 11(b)-11(f), and 11(h)

1 shall do so prior to the time such Material is disclosed to him or her.

2 **15. Exclusion of Individuals From Depositions:** Counsel for any Producing
3 Party shall have the right to exclude from depositions any person who is not authorized
4 by this Order to receive documents or information designated Confidential or Highly
5 Confidential, but only during periods of examination or testimony directed to or
6 comprising information that is Confidential or Highly Confidential.

7 **16. Storage Of Confidential Material or Highly Confidential Material:**
8 *Except for the Court and its staff*, recipients of any Confidential Material or Highly
9 Confidential Material that is provided under this Protective Order shall maintain such
10 information in a reasonably secure and safe manner that ensures that access is limited to
11 the persons authorized under this Order.

12 **17. Filing of Confidential Material or Highly Confidential Material.**
13 Without written permission from the Producing Party or a court order, a party may not
14 file in the public record in this action any Confidential Material or Highly Confidential
15 Material. The parties shall comply with Local Rule 79-5 when seeking to file Confidential
16 Material or Highly Confidential Material under seal.

17 ~~The party desiring to place any Confidential Material or Highly Confidential~~
18 ~~Material before the Court shall lodge the information in a sealed envelope along with an~~
19 ~~application to file the papers or the portion thereof containing Confidential Material or~~
20 ~~Highly Confidential Material under seal and a copy of a Proposed Order Sealing~~
21 ~~Documents. Said envelope shall be endorsed with the title of the Litigation, an indication~~
22 ~~of the nature of the contents of such sealed envelope, the identity of the party filing the~~
23 ~~materials, the phrase "Confidential Material" or "Highly Confidential Material," and a~~
24 ~~statement substantially in the following form:~~

25 ~~THIS ENVELOPE CONTAINS MATERIALS SUBJECT TO A~~
26 ~~PROTECTIVE ORDER ENTERED IN THIS LITIGATION. IT IS NOT~~
27 ~~TO BE OPENED NOR ARE ITS CONTENTS TO BE DISPLAYED,~~
28 ~~REVEALED, OR MADE PUBLIC, EXCEPT BY ORDER OF THE~~

~~COURT. UNLESS THE COURT ORDERS THAT IT NOT BE FILED, IT
SHALL BE FILED UNDER SEAL.~~

~~Additionally, within seven (7) days from the date that the papers (or portions thereof)
were filed under seal consistent with the above procedures, the party who filed the papers
under seal also shall file in the public record a version of the papers that has been redacted
to omit the Confidential Material or Highly Confidential Material (or any references
thereto).~~

20. **No Prejudice:** Agreeing to be bound by this Protective Order, agreeing
to and/or producing or receiving Confidential Material or Highly Confidential Material
or otherwise complying with the terms of this Order shall not:

a. Prejudice in any way the rights of the parties to object to the production
of documents they consider not subject to discovery, or operate as an admission by any
party that the restrictions and procedures set forth herein constitute adequate protection
for any particular information deemed by any party to be Confidential Material or Highly
Confidential Material;

b. Prejudice in any way the rights of any party to object to the authenticity
or admissibility into evidence of any document, testimony or other evidence subject to
this Order;

c. Prejudice in any way the rights of a party to seek a determination by the
Court whether any Confidential Material or Highly Confidential Material should be
subject to the terms of this Order;

d. Prejudice in any way the rights of a party to petition the Court for a
protective order relating to any purportedly confidential information; or

e. Prevent a Disclosing Party from authorizing disclosure of its own
Confidential Material or Highly Confidential Material to any party.

21. **Challenging Designation of Materials:** A party shall not be obligated
to challenge the propriety of a Confidential Material or Highly Confidential Material
designation at the time made, and failure to do so shall not preclude a subsequent

1 challenge thereto during the pendency of this Litigation.

2 **a. Challenge:** The Receiving Party may challenge the propriety of a
3 Confidential Material or Highly Confidential Material designation by providing to
4 Producing Party a writing which briefly: (i) identifies with reasonable particularity the
5 documents and/or information which are the subject of the challenge; and (ii) describes
6 the basic legal or factual grounds for the challenge.

7 **b. Meet and Confer and Motion:** Once a challenge is made, the
8 Producing Party will bear the burden of initiating and conducting a sufficient meet and
9 confer (per Local Rule 37-1); and, if necessary, Producing Party will bear the burdens of
10 proof and persuasion in moving for a Protective Order (per Local Rule 37-2) to uphold
11 the challenged Confidential Material or Highly Confidential Material designation(s). If
12 the Producing Party does not initiate the discovery motion process under Local Rule 37
13 within ninety (90) days of a *good faith* challenge, the subject Confidential Material
14 designation or Highly Confidential Material designation is effectively withdrawn and the
15 subject documents and material may be used for all purposes in this Litigation. The
16 Receiving Party must make de-designation requests in good faith. Mass, indiscriminate,
17 or routinized requests for de-designation are prohibited.

18 **f. Status of Challenged Designation Pending Judicial Determination:**
19 Until the court rules on the timely filed Motion for Protective Order, all parties shall
20 continue to afford the material in question the level of protection to which it is entitled
21 under the Producing Party's designation.

22 **22. No Application to Public or Otherwise Available Information:** This
23 Order shall not limit or restrict a Receiving Party's use of information that the Receiving
24 Party can demonstrate: (i) was lawfully in the Receiving Party's possession prior to such
25 information being designated as protected material in the Litigation and that the
26 Receiving Party is not otherwise obligated to treat as confidential; (ii) was obtained
27 without any benefit or use of protected material from a third party having the right to
28 disclose such information to the Receiving Party without restriction or obligation of

1 confidentiality; (iii) was independently developed by it after the time of disclosure by
 2 personnel who did not have access to the Producing Party's protected material; or (iv)
 3 has been published to the general public. If the Receiving Party believes that the
 4 Disclosing Party has designated information that is covered by any of the preceding
 5 categories as Confidential Material or Highly Confidential Material, the Receiving Party
 6 ~~shall~~ *may* challenge the propriety of such designation using the procedure outlined in
 7 paragraph 20 above. Any challenged designation remains in force until the propriety of
 8 such designation has been decided as outlined above.

9 **23. No Waiver of Privilege:** Disclosure (including production) of
 10 information that a Party or non-party later claims should not have been disclosed because
 11 of a privilege, including, but not limited to, the attorney-client privilege or work product
 12 doctrine ("Privileged Information"), shall not constitute a waiver of, or estoppel as to ,
 13 any claim of attorney-client privilege, attorney work-product, or other ground for
 14 withholding production as to which the Producing Party would be entitled in the
 15 litigation ~~or any other federal or state proceeding~~. This Order is intended to provide the
 16 full protection afforded by Federal Rule of Evidence 502(d), providing that "A Federal
 17 court may order that the privilege or protection is not waived by disclosure connected
 18 with the litigation pending before the court – in which event the disclosure also is not a
 19 waiver in any other Federal or State proceeding." Upon discovery by a Producing Party
 20 (or upon receipt of notice from another Party) that he/she/it may have produced
 21 Privileged Information, the Producing Party shall, within ten (10) days of such
 22 discovery, request the return of such information in writing by identifying the Privileged
 23 Information and stating the basis on which the Privileged Information should be withheld
 24 from production. After being notified, all other Parties must promptly return, sequester,
 25 or destroy the Privileged Information and any copies he/she/it has; must not use or
 26 disclose the information until the claim is resolved; and must take reasonable steps to
 27 retrieve the Privileged Information if he/she/it disclosed the Privileged Information
 28 before being notified. If any Party disputes the privilege claim ("Objecting Party"), that

Objecting Party shall notify the Producing Party of the dispute and the basis therefore in writing within thirty (30) days of receipt of the request for the return of the Privileged Information. The Parties thereafter shall meet and confer in good faith regarding the disputed claim within thirty (30) days. In the event that the Parties do not resolve their dispute, either Party may bring a motion *under Local Rule 37-1* for a determination of whether a privilege applies. If such a motion is made, the Producing Party ~~shall~~ may submit to the Court for *in camera* review ~~under seal~~ a copy of the disputed information ~~in connection with its motion papers~~. The submission to the Court shall not constitute a waiver of any privilege or protection. The Producing Party must preserve the information claimed to be privileged or otherwise protected until the claim is resolved.

Except as expressly set forth herein, nothing in this provision shall limit the bases on which the Objecting Party may challenge the assertion of any privilege or protection by the Producing Party. In addition, nothing in this provision shall permit the Producing Party to seek to withhold or “claw back” a previously-produced document in this Litigation if that document was the subject of deposition testimony in this Litigation and the Producing Party did not provide notice, as described above in paragraph 6(b), within thirty (30) days after the deposition that the document was privileged or protected and should be returned. *The parties shall meet and confer about when to serve privilege logs and the format of privilege logs.*

24. Additional Parties or Attorneys: In the event additional parties join or intervene in this action, the newly joined party(ies) shall not have access to Confidential Material or Highly Confidential Material until its counsel has executed and, at the request of any party, filed with the Court its agreement to be fully bound by this Order. If any additional attorneys make appearances in this Litigation, those attorneys shall not have access to Confidential Material or Highly Confidential Material until they execute the “Agreement Concerning Information Covered by Protective Order” attached hereto as Exhibit A.

25. Protective Order Remains In Force: This Protective Order shall remain in

1 force and effect until modified, superseded, or terminated by consent of the parties or by
2 order of the Court made upon reasonable written notice. Unless otherwise ordered, or
3 agreed upon by the parties, this Protective Order shall survive the termination of this
4 action. The Court retains jurisdiction ~~even~~ *for six months* after termination of this action
5 to enforce this Protective Order and to make such amendments, modifications, deletions
6 and additions to this Protective Order as the Court may from time to time deem
7 appropriate.

8 **26. No Prejudice For Further Relief:** This Protective Order is without
9 prejudice to the right of any party to seek other or further relief from the Court.

10 **27. No Waiver of Grounds For Producing Material:** This Protective Order
11 shall not be construed as waiving any right to assert a claim of privilege, relevance,
12 overbreadth, burdensomeness or other grounds for not producing material called for, and
13 access to such material shall be only as otherwise provided by the discovery rules, ~~and~~
14 other applicable laws, *and court orders*.

15 **28. Conclusion of Litigation:** Within ninety (90) days after receiving notice
16 of the entry of an order, judgment or decree finally disposing of this Litigation, all persons
17 *(except the Court and its staff)* having received Confidential Material or Highly
18 Confidential Material shall either return such material and all copies thereof to counsel
19 for the Producing Party, or destroy all such Confidential Material or Highly Confidential
20 Material and, in either case, certify that fact to counsel for the Producing Party. Counsel
21 of record shall make arrangements for the return of Confidential Material or Highly
22 Confidential Material that counsel of record provided to any persons or entities, except
23 the Court, court personnel and court reporters. Outside counsel of record for the parties
24 shall be entitled to retain court papers, depositions, trial transcripts and attorney work
25 product, provided that such outside counsel of record shall not disclose Confidential
26 Material or Highly Confidential Material to any person except pursuant to a court order
27 or agreement with the party that produced the Confidential Material or Highly
28 Confidential Material. All material returned to the parties or their counsel by the Court

1 shall likewise be disposed of in accordance with this paragraph.

2 ~~**29. No Loss of Confidential or Highly Confidential Status By Use In**~~
 3 ~~**Litigation or Appeal:**~~ In the event that any Confidential or Highly Confidential material
 4 is used in any court proceeding in this Litigation or any appeal therefrom, such
 5 Confidential or Highly Confidential Material shall not lose its status as Confidential or
 6 Highly Confidential through such use. Counsel shall comply with all applicable local
 7 rules and shall confer on such procedures that are necessary to protect the confidentiality
 8 of any documents, information and transcripts used in the course of any court
 9 proceedings, including petitioning the Court to close the court room.

10 **30. Advice Based on Discovery Material Allowed:** Nothing in this
 11 Protective Order shall bar or otherwise restrict any attorney from rendering advice to his
 12 *or her* client with respect to this litigation and, in the course of rendering advice, referring
 13 to or relying generally on the examination of Confidential Material or Highly
 14 Confidential Material; provided, however, that in rendering such advice and in otherwise
 15 communicating with his *or her* client, the attorney shall not disclose the contents of any
 16 Confidential Material or Highly Confidential Material produced by another party if that
 17 disclosure would be contrary to the terms of this Protective Order.

18 **31. Redaction Allowed:** Any Producing Party may redact from the documents
 19 and things it produced matter that the Producing Party claims is subject to attorney-client
 20 privilege, work product immunity, a legal prohibition against disclosure, or any other
 21 privilege or immunity. The Producing Party shall mark each thing where matter has been
 22 redacted with a legend stating "REDACTED," as appropriate, or a comparable notice.
 23 Where a document consists of more than one page, at least each page on which
 24 information has been redacted shall be so marked. The Producing Party shall preserve an
 25 unredacted version of each such document. *The Producing Party shall provide a log*
 26 *explaining the basis of such redactions.*

27 **32. Violations of Protective Order:** In the event that any person or party
 28 should violate the terms of this Protective Order, the aggrieved Disclosing Party should

1 apply to the Court obtain relief against any such person or party violating or threatening
 2 to violate any of the terms of this Protective Order. In the event that the aggrieved
 3 Disclosing Party seeks injunctive relief, ~~it must petition the District Judge for such relief,~~
 4 ~~which may be granted at the sole discretion of the District Judge~~ *discovery-related*
 5 *motions are referred to the Magistrate Judge. (Dkt. 6.)* The parties and any other person
 6 subject to the terms of this Protective Order agree that this Court shall retain jurisdiction
 7 over it and them for the purpose of enforcing this Protective Order, *per Paragraph 25.*

8 **33. Headings:** The headings herein are provided only for the convenience of the
 9 parties and are not intended to define or limit the scope of the express terms of this
 10 Protective Order.

11
 12 DATED: July 1, 2024

Respectfully stipulated to and submitted by,
ALSTON & BIRD LLP

13
 14 By /s/ Jonathan J. Kim
 15 Jonathan J. Kim
 16 Attorneys for Defendant The Lafayette Life
 17 Insurance Company

18 DATED: July 1, 2024

DAVIS LAW GROUP

19 By /s/ D. Jason Davis
 20 D. Jason Davis
 21 Attorneys for Plaintiffs Anthony Di Bernardo,
 22 Flexible Insurance Plans, Inc. dba FIP
 23 Insurance Services, Strategic Insurance
 24 Designs, Inc. dba Strategic Designs Insurance
 25 Services
 26
 27
 28

1
2 DATED: July 1, 2024

FREEMAN MATHIS & GARY, LLP

3
4 By /s/ Chad Weaver
Chad Weaver
5 Attorneys for Defendants Pensionlabs
6 Incorporated and Michael Holman
7
8
9

10 **LOCAL RULE 5-4.3.4(a)(2)(i) CERTIFICATION**

11 The filer of this document attests that all other signatories listed above on whose
12 behalf this filing is submitted concur in the filing's content and have authorized the filing.
13

14 By /s/ Jonathan J. Kim
Jonathan J. Kim
15 Attorneys for Defendant The Lafayette Life
16 Insurance Company
17

18 IT IS SO ORDERED.

19
20 Dated: July 3, 2024


21 Hon. Karen E. Scott
22 United States Magistrate Judge
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EXHIBIT A

CERTIFICATION RE CONFIDENTIAL DISCOVERY MATERIALS

I hereby acknowledge that I, _____
[NAME], _____ [POSITION AND EMPLOYER],
am about to receive Confidential Materials supplied in connection with the Proceeding,
Anthony Di Bernardo, et al. v. The Lafayette Life Insurance Company, et al., Case No.
8:23-cv-01035-FWS-KES, United States District Court, Central District of California. I
certify that I understand that the Confidential Materials are provided to me subject to the
terms and restrictions of the Stipulation and Protective Order filed in this Proceeding. I
have been given a copy of the Stipulation and Protective Order; I have read it, and I agree
to be bound by its terms.

I understand that Confidential Materials, as defined in the Stipulation and
Protective Order, including any notes or other records that may be made regarding any
such materials, shall not be Disclosed to anyone except as expressly permitted by the
Stipulation and Protective Order. I will not copy or use, except solely for the purposes of
this Proceeding, any Confidential Materials obtained pursuant to this Protective Order,
except as provided therein or otherwise ordered by the Court in the Proceeding.

I further understand that I am to retain all copies of all Confidential Materials
provided to me in the Proceeding in a secure manner, and that all copies of such Materials
are to remain in my personal custody until termination of my participation in this
Proceeding, whereupon the copies of such Materials will be returned to counsel who
provided me with such Materials.

I declare under penalty of perjury, under the laws of the United States, that
the foregoing is true and correct. Executed this _____ day of _____, 2024,
at _____.

1 Dated: _____

2
3 _____
4 Signature

5 _____
6 Address

7
8 _____
9 City, State, Zip

10 _____
11 Telephone Number